

Introduced by Senator Cedillo

February 27, 2009

An act to amend Section 512 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 665, as amended, Cedillo. Employment: meal periods.

Existing law requires an employer to provide its employees with a meal period of not less than 30 minutes after working more than 5 hours per day and a 2nd meal period of the same duration after working more than 10 hours per day. Under existing law, these meal periods may be waived under certain conditions by mutual consent of the employer and employee. Existing law makes a violation of these provisions a misdemeanor.

This bill would allow an employer of a registered security officer to provide on-duty meal periods instead if the officer is covered by a valid collective bargaining agreement containing specified terms or has a written on-duty meal period agreement with his or her employer containing specified terms.

Because the bill would make these on-duty meal provisions subject to specified terms, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 512 of the Labor Code is amended to
2 read:
3 512. (a) An employer may not employ an employee for a work
4 period of more than five hours per day without providing the
5 employee with a meal period of not less than 30 minutes, except
6 that if the total work period per day of the employee is no more
7 than six hours, the meal period may be waived by mutual consent
8 of both the employer and employee. An employer may not employ
9 an employee for a work period of more than 10 hours per day
10 without providing the employee with a second meal period of not
11 less than 30 minutes, except that if the total hours worked is no
12 more than 12 hours, the second meal period may be waived by
13 mutual consent of the employer and the employee only if the first
14 meal period was not waived.
15 (b) Notwithstanding subdivision (a), the Industrial Welfare
16 Commission may adopt a working condition order permitting a
17 meal period to commence after six hours of work if the commission
18 determines that the order is consistent with the health and welfare
19 of the affected employees.
20 (c) Subdivision (a) does not apply to an employee in the
21 wholesale baking industry who is subject to an Industrial Welfare
22 Commission wage order and who is covered by a valid collective
23 bargaining agreement that provides for a 35-hour workweek
24 consisting of five 7-hour days, payment of one and one-half times
25 the regular rate of pay for time worked in excess of seven hours
26 per day, and a rest period of not less than 10 minutes every two
27 hours.
28 (d) If an employee in the motion picture industry or the
29 broadcasting industry, as those industries are defined in Industrial
30 Welfare Commission Wage Order Numbers 11 and 12, is covered
31 by a valid collective bargaining agreement that provides for meal
32 periods and includes a monetary remedy if the employee does not
33 receive a meal period required by the agreement, then the terms,
34 conditions, and remedies of the agreement pertaining to meal
35 periods apply in lieu of the applicable provisions pertaining to

meal periods of subdivision (a) of this section, Section 226.7, and Industrial Welfare Commission Wage Order Numbers 11 and 12.

(e) Notwithstanding subdivisions (a) and (b), on-duty meal periods for which full compensation is provided to the employee are permitted for a security officer registered pursuant to, *and employed by a private patrol operator who is registered pursuant to*, Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code to whom either ~~of the following is applicable~~: *paragraph (1) or (2) is applicable. This subdivision does not apply to an armored vehicle guard employed by an armored contract carrier.*

(1) The security officer is covered by a valid collective bargaining agreement and the agreement expressly provides for the wages, hours of work, and working conditions of employees and expressly provides for meal periods for those employees, final and binding arbitration of disputes concerning application of its meal period provisions, premium wage rates for all overtime hours worked, and a regular hourly rate of pay not less than 30 percent more than the state minimum wage.

(2) The security officer and his or her employer have entered into a written on-duty meal period agreement that complies with all of the following:

(A) The security officer is provided the opportunity to take a ~~compensated, 30-minute~~ 30-minute on-duty meal period during each work period of five or more hours *in lieu of an unpaid, 30-minute off-duty meal period during the same work period.*

(B) If the security officer works 10 or more hours in one work period, the security officer may take a second, compensated on-duty meal period under the same conditions as the first on-duty meal period.

(C) The security officer receives full compensation for on-duty meal periods.

(D) The security officer voluntarily entered into the written on-duty meal period agreement.

(E) The written agreement states that the security officer may revoke the agreement in writing at any time.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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